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October 30, 2017

ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: In the Matter of Accelerating Wireline Broadband Deployment by
Removing Barriers to Infrastructure Investment, WC Docket No. 17-84**

Dear Ms. Dortch:

On October 26, 2017, Ms. Kiran Malone (Director, Consumers Energy); Mr. Jeff Crouse (Network Attachments Specialist, Consumers Energy); Mr. Lauren Gaunt (Principal Engineer, Eversource); Mr. Brad Perkins (Counsel, Commonwealth Edison); Ms. Mindy Hartstein (Manager of Wood Pole Infrastructure, Hawaiian Electric); and Timothy Doughty (Attorney, Keller and Heckman) and the undersigned met with Amy Bender of Commissioner O'Rielly's Office, and with Lisa Hone, Michael Ray, Adam Copeland and Dan Kahn of the FCC Wireline Competition Bureau in connection with the Notice of Proposed Rulemaking and Notice of Inquiry in the proceeding referenced above.

The utility representatives identified above represent four of the twelve investor-owned electric utility companies which comprise the *Coalition of Concerned Utilities* ("Coalition"), which filed Comments and Reply Comments in this proceeding.¹ The purpose of the meetings was to discuss the Coalition's proposed creative and common-sense solutions to improve the process by which communications companies may attach their facilities to electric distribution poles.

¹ See Comments of the Coalition of Concerned Utilities, WC Docket No. 17-84 (June 15, 2017); Reply Comments of the Coalition of Concerned Utilities, WC Docket No. 17-84 (July 17, 2017). The *Coalition* is composed of Arizona Public Service, Consumers Energy, Eversource, Exelon Corporation, FirstEnergy, Hawaiian Electric, Kansas City Power and Light, NorthWestern Energy, Portland General Electric, Puget Sound Energy, South Carolina Electric & Gas, and The AES Corporation.

The *Coalition* members stressed that ensuring the safety and reliability of their infrastructure is paramount. Utility poles have already become crowded, and will become more so with hundreds of thousands of new 5G wireless and other attachments expected to be installed in the future. As the owners of valuable fully-constructed pole distribution systems that are a key part of communications company efforts to supply next-generation communications, it is important for utility pole owners to have the tools and incentives necessary to become problem-solving partners in this process. To that end, the *Coalition* reiterated its support for One-Touch Make-Ready in the communications space, identified attachment management tools that would be useful to address existing communications company delays, and proposed economic and other incentives to encourage utility pole owners to problem solve the numerous anticipated and unanticipated issues that will arise in the future.

The *Coalition* representatives explained to the Wireline Bureau staff that the existing make-ready deadlines imposed by the FCC's April 2011 Pole Attachment Order are already excessive, and any attempt to shorten those deadlines will be unworkable. The *Coalition* stressed that safety violations by existing attachers, slow relocations and transfers by existing attachers, and the presence of unused facilities on pole infrastructure are the principal barriers to new communications attachers' access to poles. Moreover, pole owners must be allowed to recover the significant costs associated with managing the pole attachment process for the benefit of communications attacher, so that if utilities incur out-of-pocket costs that it would not have incurred but-for attachment requests, they must be reimbursed. If the Commission adopts rules which limit pole owners from recovering costs associated with new attachment requests, eliminate capital expenses from the rental rate, or reduce the ILEC rate, electric rate payers will essentially be subsidizing the deployment of communications facilities.

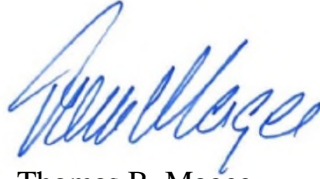
The *Coalition* representatives reiterated the extreme potential dangers associated with work in the electric space of utility poles, which requires extensive training, insulated equipment and clothing, proper lock-out of high voltage lines, and careful coordination and other communication with central control. Moreover, many union agreements place restrictions on the percentage of work that can be done on utility poles by contractors.

The attached presentation was used to help communicate the *Coalition's* viewpoint and proposals.

KELLER AND HECKMAN LLP

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Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Magee", written in a cursive style.

Thomas B. Magee
Partner

Enclosure

cc: Amy Bender
Michael Ray
Adam Copeland
Lisa Hone
Dan Kahn



Coalition of Concerned Utilities

**Ex Parte Presentations to
Federal Communications Commission**

**Wireline Broadband Deployment Proceeding
(WC Docket No. 17-84)**

October 26-27, 2017



Agenda

- Perception vs. Reality
- *Coalition* Solutions for Promoting Broadband and Speeding Access

Coalition of Concerned Utilities

- **Arizona Public Service**
- **Consumers Energy**
- **Eversource**
- **Exelon Corporation**
- **FirstEnergy**
- **Hawaiian Electric**
- **Kansas City Power and Light**
- **NorthWestern Energy**
- **Portland General Electric**
- **Puget Sound Energy**
- **South Carolina Electric & Gas**
- **The AES Corporation**

Coalition of Concerned Utilities

- *Coalition* serves approximately 31,168,000 electric customers and owns approximately 12,247,000 electric distribution poles.
- Chairman Pai wants “creative and common sense” pole attachment regulations to address “unreasonable costs and delays.”
- The *Coalition* has creative and common sense solutions.

Pole Attachments

Perception



Reality



Pole Attachments

Perception



Reality



Pole Attachments

Perception



Reality



Pole Attachments

Perception



Reality



Reality: Wind and Ice Loading

Electric distribution systems are exposed to a variety of environmental conditions



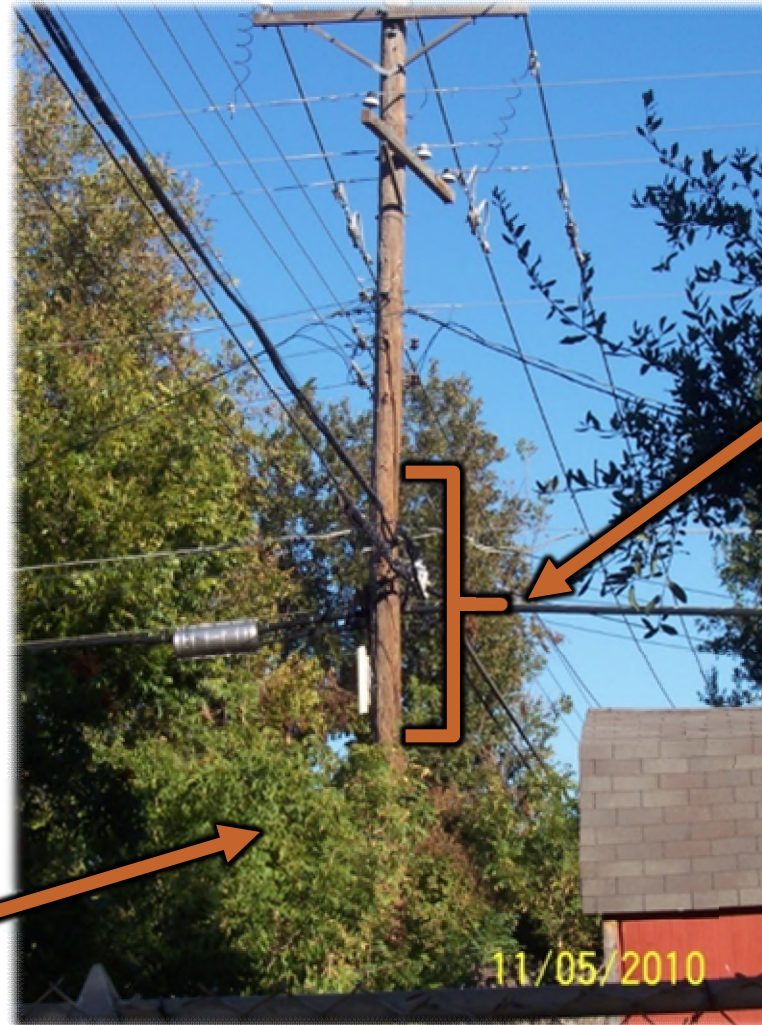
Reality: Wind and Ice Loading



Reality: Many Factors Can Impede Work

**Backyard Access Only:
Must Climb Pole**

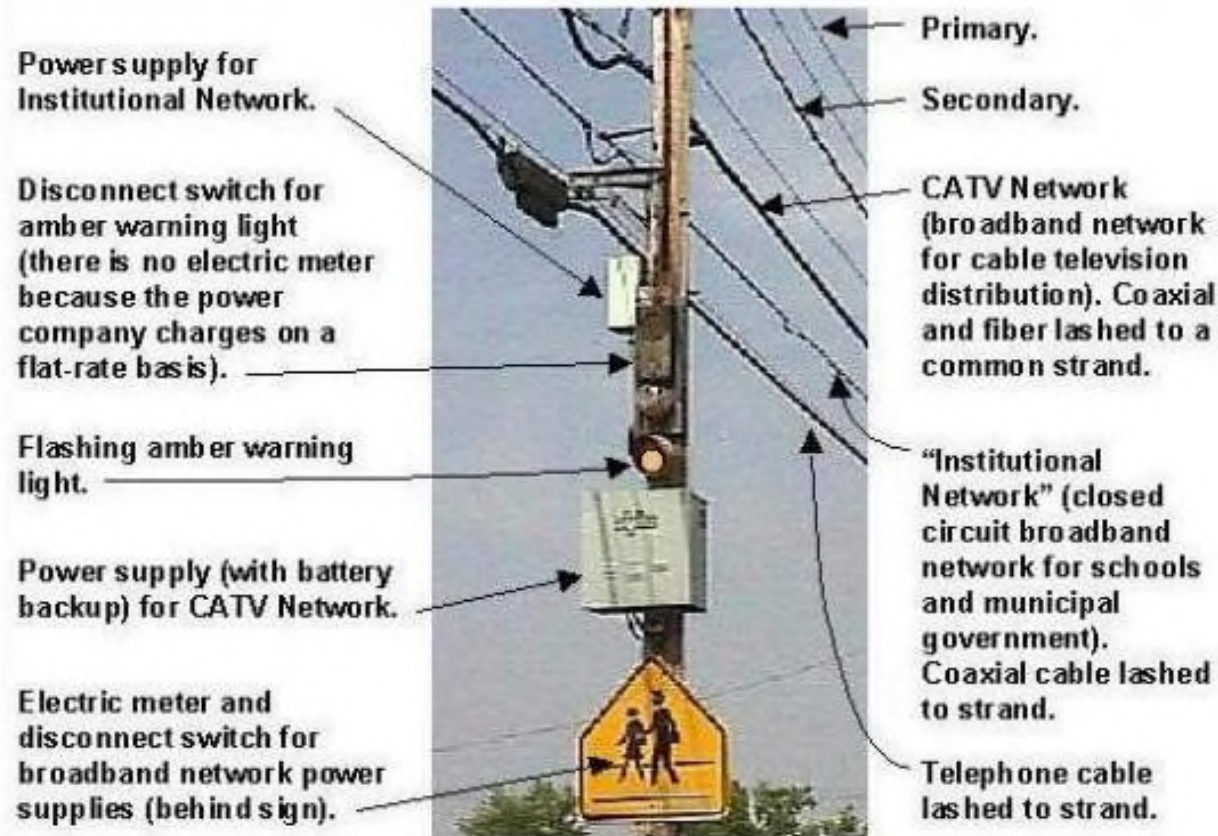
**Vegetation, Tree
trimming
required**



**Climbing
obstructions**

Fence

Reality: Rearrangements are Complex and Labor Intensive



Sun Prairie, Wisconsin, 1998

Example 1

Reality: Safety Violations & Unauthorized Attachments Impede Process

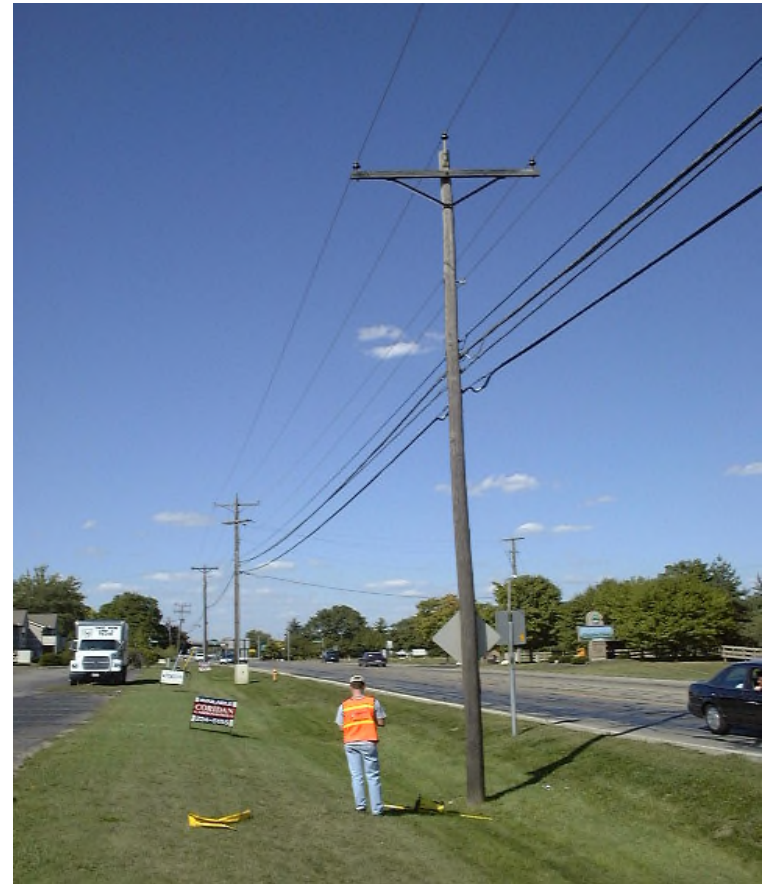
- Communications companies attach too close to each other
- Communications attachments less than 40 inches from power
- Communications attachments and communications overloading overload the poles
- Communications attachments too low
- Grounding and bonding violations – puts workers at risk.
- Attachments with improper guying

Reality: Communications Contractor \neq Power Contractor



Reality: Field Survey Not A “Drive-By” Science

- Proper and thorough front end engineering is essential
- Each site must be visited in the field
- Online databases don’t remove the need to perform field visits
- Compromising engineering time can result in safety and reliability risks
- Each job is unique and requires a unique solution



Reality: These Are Not “Pizza boxes”



Reality: These Are Not “Pizza boxes”





Differing Goals of Communications Companies and Electric Utilities Can Create Conflicting Objectives

- Speed to market
- Minimize Cost
- One size fits all rules
- Worker & Public Safety
- System Reliability
- Minimize Operational Impact
- Obligation to Serve
- More Heavily Regulated

Communications Attacher Problem

- Existing communications companies are slow to relocate and transfer.
- That's what one-touch make-ready in Louisville and Nashville is designed to address.
- Existing communications attachers make it more difficult, expensive and time consuming for new attachers by:
 - **slow to relocate and transfer;**
 - **unauthorized attachments and safety violations; and**
 - **failing to remove unused facilities.**



One-Touch Make-Ready Solution

1. Limited to moving communications company facilities.
2. Give electric utility the option (but not the obligation) of assuming control over one-touch make-ready contractor.
3. Require communications attachers to meet regularly.
4. Provide incentives for existing communications company attachers to perform complex make-ready work in a timely manner. Allow new communications attacher to issue fines up to \$500/pole/month for communications company delay.
5. Require new attacher to post a surety bond/other security.
6. Require new attacher to indemnify existing attachers.
7. Require new attacher to pay for most of this one-touch make-ready process.
8. For larger build outs, a contract needed to manage everything behind the scenes, like material handling, getting poles set, coordinating outages, getting permits, etc., etc.



Other Solutions

1. Require existing attachers to remove unused attachments.
2. Allow new attachers to file pole attachment complaints against existing communications attachers.
3. If an existing communications attacher has an unauthorized attachment or safety violation, they should reimburse new attachers for their make-ready expenses.
4. If a utility pole owner must perform an existing attacher's work (e.g., transferring attachments, removing unauthorized attachments, correcting safety violations), the pole owner should be reimbursed for its fully-loaded costs plus 20%.
5. Allow utility pole owners to require communications attachers to participate in an electronic notification system.
6. Allow utility pole owners to stop processing new applications and to retract attachment permits if an existing attacher fails to comply with the pole attachment agreement.
7. Allow utility pole owners to sanction existing attachers for unauthorized attachments and safety violations.



Make-Ready Deadlines Do Not Help

- Don't solve problem of existing attachers not doing what they should do
- Existing deadlines already unworkable, as explained in pending 2011 Reconsideration Petition
- Proposed new deadlines near impossible for most utilities (e.g., requiring surveys to be performed in 15 days rather than 45 days).
- Can't rush maintaining and operating critical electric infrastructure
- Reducing deadlines even further would be dangerous.
- Reexamine wireless deadlines. No one really knows how large-scale small cell installations will work.

Another Solution

Encourage electric utility pole owners to become part of the solution

- These are scarce resources and the price to attach should reflect that
- Pole rates are not a significant factor in decisions to deploy broadband
- Yet utilities recover only a small portion of annual pole costs and don't recover out-of-pocket costs
 - \$2 million in salaries, overhead, software, legal, consultants, equipment, truck rolls, etc.
increases rate by \$0.01 for recovery of \$30,000



Another Solution

Encourage electric utility pole owners to become part of the solution

- In cases where the pole owner was treated as partner, deployments have gone much smoother.
 - ILEC/Electric joint use relationships were developed to efficiently utilize pole networks.
 - Both parties agreed to share the cost of a single pole network that saved both parties money.
 - Both parties agreed to ALL the terms and conditions of the agreement.
 - Lowering ILEC rate in negotiated joint use agreements would be counterproductive



Another Solution

Encourage electric utility pole owners to become part of the solution

- Maintain existing joint use rates/relationships
- Clarify that pole owners are entitled to recover all out-of-pocket “but-for” costs separate from the rental rate
- Raise existing Cable/CLEC rates to the TVA Rate, or at least the pre-2011 Telecom Rate
- Allow negotiated rates for wireless attachments



Another Solution

Encourage electric utility pole owners to become part of the solution

- Starving electric utility pole owners is counterproductive
- Better to treat utility pole owners as an essential partner in a joint effort to spur broadband deployment
- If mutually beneficial, then productive cooperative relationships can develop



Questions?